

# **Fiscal Services Division**

## **Legislative Services Agency**

### **Fiscal Note**

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SF 2428 – Delinquent Debt Collection (LSB 5215SV)

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Fiscal Note Version – New

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#### **Description**

Senate File 2428 relates to the collection of delinquent debt owed the State and political subdivisions of the State by requiring offsets of gambling winnings, sanctioning of professional licenses, modifying provisions related to county attorney collections, writing off certain delinquent court debt, modifying provisions relating to the deposit of certain funds in the Jury and Witness Fee Fund, and making penalties applicable.

#### **Background**

- Under current law, (Section 602.8107(4), Code of Iowa), a county attorney may collect delinquent debt and retain 35.0% of the amount collected for deposit in the county general fund and the State receives 65.0%. The current formula threshold for county attorney collections is \$1.2 million to the State General Fund. This represents the State's 65.0% share of the outstanding court debt collected. Once the threshold is met, the formula changes and the county retains 35.0%, the county attorney's office retains 33.0%, and the State's share is 32.0% (Section 602.8107(5), Code of Iowa). There are currently 35 county attorneys or county attorney designees actively participating in the collections process.
- In FY 2007, court collections through the Centralized Collections Unit (CCU) totaled \$18.7 million. The CCU added a 10.0% fee to each account. The 10.0% pays for the contract costs and the Department of Revenue costs such as some personnel, accounting, data processing, printing, etc. Of the 10.0% add-on fee, the collection agency receives 2.75% on collections until \$12.0 million has been collected. The rate then changes to 6.50% for collections in excess of \$12.0 million per year.
- The Department of Revenue has a 28E agreement with the Judicial Branch for collections. The CCU has been collecting for the Judicial Branch for 15 years. In FY 2007, the CCU collected 21.0% of debt placed with them for 12 months.
- In addition to collecting court debt, the CCU works with the collection agency for the collection of taxes, child support, and student loans. In FY 2007, the CCU collected \$53.0 million, of which \$18.7 million was outstanding court debt.
- Under current law, the Department of Administrative Services (DAS) charges and retains \$7 to the debtor for each offset held. The fee is used to cover all the expenses for the offset program so no additional appropriations are necessary.
- For FY 2005, there were 23,379 taxpayers in the State of Iowa that received a W-2G form (tax statement of gambling winnings) for casino and racetrack winnings. For tax year 2005, 799 taxpayers filled out a form for over \$10,000 in winnings. Of this number, approximately 125 people (15.6%) owed the State of Iowa money for income taxes, child support, outstanding court debt, unemployment insurance, and local governments. (College Student Aid Commission data regarding outstanding student loan debt was not available.)
- The Department of Revenue has used the collection system provided by CGI Group Inc. for 15 years.
- During calendar year 2007, the Department of Revenue completed a significant upgrade of the collections system by bringing in new software designed to improve collections efficiency. The cost of the upgrade and reengineering associated with implementing the

upgrade was \$3.25 million. Since the new system was implemented, the revenue return has exceeded the cost of the upgrade.

- The Department of Revenue is in the process of a Department-wide information technology modernization assessment. The submittals from the Request for Proposal issued with regard to this assessment were due April 14, 2008. The assessment will be undertaken over the next year and will impact future technology purchases by the Department.
- Currently, there is \$476.0 million in outstanding court debt from 1991 to present. Of this amount, approximately \$138.3 million is covered under some sort of payment plan (Judicial Branch, county attorneys, Department of Corrections, or Community-Based Corrections).
- Of the current \$476.0 million in outstanding court debt, the debt is divided among the following categories:
  - 3.0% civil
  - 65.0% criminal
  - 9.0% miscellaneous
  - 23.0% traffic
- Judges and magistrates can require a defendant to attend a “show cause hearing” to justify delayed court debt repayments. In FY 2007, there were 4,551 “show cause hearings;” however, this figure includes all “show cause hearings” and not just those related to collections.

### **Assumptions**

- Court debt is owed and payable to the Clerk of the District Court. All revenue collected under the proposed amendment goes to the Judicial Branch for distribution pursuant to Sections 602.8106 and 602.8108, Code of Iowa.
- Payments are applied in the following order:
  1. Restitution
  2. Fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge.
  3. Crime Victim Compensation Program.
  4. Court costs, including correctional fees, court-appointed attorney fees, and public defender expenses.
- Receipts from current collections will remain unchanged.
- Court debt is deemed delinquent if it is not paid within 30 days after the date it is assessed.
- Thirty days after the court debt has been assessed, or if an installment payment is not received within 30 days after the date it was due, the Judicial Branch may assign the case to the CCU, in the Department of Revenue, for a period of 60 days.
- The county attorney or the county attorney’s designee may collect court debt after 90 days. If the county attorney is not collecting the court debt, the Judicial Branch may contract with a private collection designee for the collection of court debt after 90 days.
- As of April 8, 2008, receipts of \$4.0 million of outstanding court debt that is two years old or older have been deposited in the Jury and Witness Fee Revolving Fund. The estimated balance carryforward for FY 2009 in this Fund is approximately \$7.0 million.
- Beginning in FY 2011 and future years, a General Fund appropriation of approximately \$3.5 million to the Jury and Witness Fee Revolving Fund will be required to offset the loss of two-year-old court debt currently being deposited to the Fund.

- The average receipts to the Jury and Witness Fee Revolving Fund from FY 2005 through FY 2008 is \$3.6 million. This money will now be deposited in the State General Fund.
- According to the Justice Data Warehouse, from January 1, 1998, through December 31, 2007, there were 608,578 cases that represented \$171.4 million in fines, penalties, and surcharges that were assigned to old debt and \$23.9 million was paid against that old debt, for a total of \$147.5 million. This is assumed to be a one-time source of revenue collected over 18 months. (This figure does not include restitution, attorney fees, or sheriff fees.)
- The private collection agency will receive a 25.0% add-on fee to any debt pursued and collected.
- The estimated collection rate on actively collecting debt that is three to ten years old (including the 25.0% add-on fee) is 7.9%.
- Increased collections on debt from three to ten years old is assumed to have a three-month lag to verify the debt is not in some sort of payment plan (all updated information is in the court file) and to determine the debtor is not deceased.
- According to the Judicial Branch, approximately \$2.4 million per month in court debt (excluding criminal debt) remains uncollected after 90 days. This revenue is considered on-going into future fiscal years.
- The estimated collection rate on debt that is 90 days old is 25.3%.
- The county attorney will be allowed to retain 40.0% for the County General Fund and the State General Fund will receive 60.0%. Once a county with a population of over 100,000 collects \$500,000, the county attorney's office will be allowed to retain an additional 12.0%, for a total of 52.0%. This reduces the percentage going to the State to 48.0%. If a county with a population of less than 100,000 collects \$250,000, the county attorney's office will retain an additional 12.0%, for a total of 52.0%.
- From FY 2005 through FY 2007, Black Hawk County and Warren County were the only two counties that exceeded the threshold. In FY 2007, Black Hawk County collected a total of \$840,000 and Warren County collected a total of \$257,000.
- Requires the Department of Administrative Services (DAS) to create and operate a Racing and Gaming Offset Program at casinos, riverboats, and racetracks for the collection of outstanding debt owed the State of Iowa.
- Requires non-profit corporations licensed under Chapters 99D and 99F, Code of Iowa, to be provided with electronic access to names and social security numbers for debtors of claimant agencies through a secured, interactive web site maintained by the State. This information is only to be used in the pursuit of debt collection duties and practices.
- The claimant agency will provide a list of names of all persons indebted to them or to a person on whose behalf the claimant agency is acting. The electronic list will contain the names of the debtors, their social security numbers, and any other information that assists in identifying the debtors on the list. The list constitutes a valid lien against the winnings of the debtor on the list, if the winnings are at least \$10,000.
- The average amount owed to State and local governments by individuals with winnings of \$10,000 at casinos and racetracks was \$2,884. If this Program was in place, the State would have received approximately \$252,700 (70.0%) and local governments, child support, Workforce Development, etc. would have received approximately \$108,300 (30.0%) in increased collections.
- Any portion of the court debt in a case that remains uncollected after 65 years, will be written off as uncollectible and the case file will be closed. This will be handled on a case-by-case basis.

- The Bill requires the Department of Transportation to provide personal information that identifies social security numbers to the Department of Revenue, Department of Administrative Services, and the Judicial Branch for the purposes of debt collection duties and practices.

### **Fiscal Impact**

The following is the fiscal impact of SF 2428:

	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
Three to Ten Year Old Debt Collections	\$ 11,616,000	\$ 11,616,000	\$ 0
Jury Witness Fund Revenue to the General Fund	3,600,000	3,600,000	100,000
Increased Collections on Current Debt	7,290,000	7,290,000	7,290,000
Racing and Gaming Offset Program	252,700	252,700	252,700
<b>Total</b>	<b>\$ 22,758,700</b>	<b>\$ 22,758,700</b>	<b>\$ 7,642,700</b>

The provision in this amendment requiring the Centralized Collections Unit's (CCU) to notify certain licensees that their license will not be renewed unless they pay their debt, may result in additional revenue to the State but the amount cannot be determined at this time.

The provision in this amendment authorizing the Director of the Department of Revenue to upgrade the CCU's computer-assisted collections system (CACS) by acquiring a web-based version of the system currently being used from the vendor of the existing system on a sole source basis is estimated to cost between \$6.5 million and \$8.0 million. The vendor estimated rate of return associated with implementing the system ranges between \$3.0 million and \$7.5 million per year. The Department has not done an independent estimate of the benefits that could be derived from the proposed web-based upgrade.

The cost to the Judicial Branch to implement the delinquent debt collection bill is \$292,000. This figure includes \$95,000 for one-time programming costs and \$197,000 and 3.0 FTE positions for additional staff.

### **Sources**

Department of Administrative Services  
Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)  
Department of Revenue  
Judicial Branch

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April 21, 2008

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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